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EXAMINER

CHARLES, DEBRA F

ART UNIT

PAPER NUMBER

2161

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/393,899

Applicant(s)

BRAITBERG ET AL.

Examiner

Debra F. Charles

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Claims 1-30 have been reviewed.

Claim Objections

1. Claim 1 is objected to because of the following informalities: Between the words "storable content is" and the word "readable", there is a period. Claims can only have one period at the end of the entire claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1,4-6,10-11, 17-22 and 30** are rejected under 35 U.S.C. 102(b) as being unpatentable over **Edwards, Jr. (5014234)**.

As per **Claim 1, Edwards, Jr.** discloses a method for distribution of storable content(Col. 6, lines 37-45) comprising(Col. 2, lines 54-67): distributing information content-mastered media(Col. 3, lines 1-15) including at least said storable content(Col. 6, lines 37-45) and a media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15), to a plurality of users including a first user, wherein at least some of said storable content(Col. 6, lines 37-45) is readable by at least a first media(Col. 3, lines 1-15) reader apparatus(Col. 4, lines 1-3) only in response to at least a first access code(Col. 4, lines 1-15, Col. 6, lines 31-45): and distributing a First permission code(Col. 4, lines 1-15, Col. 6, lines 31-45) to said first media(Col. 3, lines 1-15) reader apparatus in exchange for a first payment(Col. 3, lines 15-20, Col. 4, lines 20-30), said media(Col. 3, lines 1-15) storing a first code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to said first permission code(Col. 4, lines 1-15, Col. 6, lines 31-45) at a first time, said first permission code(Col. 4, lines 1-15, Col. 6, lines 31-45) in combination with said first code(Col. 4, lines 1-

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15, Col. 6, lines 31-45) providing said first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) and permitting at least a first access to said storable content(Col. 6, lines 37-45).

As per **Claim 4, Edwards, Jr.** discloses a method further comprising distributing to said media(Col. 3, lines 1-15) reader, a second permission code(Col. 4, lines 1-15, Col. 6, lines 31-45) obtained by said first user at a second time, later than said first time, in exchange for a second payment(Col. 3, lines 15-20, Col. 4, lines 20-30) wherein said media(Col. 3, lines 1-15) stores a second code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a second access code(Col. 4, lines 1-15, Col. 6, lines 31-45), the second permission code(Col. 4, lines 1-15, Col. 6, lines 31-45) being on said media, said media(Col. 3, lines 1-15) permitting at least second access, different from said first access, to said storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) by providing said second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to said reader apparatus, using said second code(Col. 4, lines 1-15, Col. 6, lines 31-45) .

As per **Claim 5, Edwards, Jr.** discloses a method further comprising distributing to said media(Col. 3, lines 1-15) reader, a second permission code(Col. 4, lines 1-15, Col. 6, lines 31-45) requested by a second user, different from said first user at a second time, later than said first time, in exchange for a second payment(Col. 3, lines 15-20, Col. 4, lines 20-30) wherein said media(Col. 3, lines 1-15) stores a second code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said media, wherein said second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) permits at least a second access to said storable content(Col. 6, lines 37-45), different from said first access, by providing said second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to said reader apparatus, using said second code(Col. 4, lines 1-15, Col. 6, lines 31-45) .

As per **Claim 6, Edwards, Jr.** discloses a method further comprising providing at least said first access to said storable a content(Col. 6, lines 37-45) by providing said first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to a second reader apparatus, different from said first reader apparatus, using said first

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code(Col. 4, lines 1-15, Col. 6, lines 31-45) (Col. 4, lines 1-15, Col. 6, lines 31-45), in the absence of a need for an additional payment(Col. 3, lines 15-20, Col. 4, lines 20-30).

As per **Claim 10, Edwards, Jr.** discloses a method further comprising calculating said first code(Col. 4, lines 1-15, Col. 6, lines 31-45) based on a combination of said permission code(Col. 4, lines 1-15, Col. 6, lines 31-45) and said media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15).

As per **Claim 11, Edwards, Jr.** discloses a method wherein said first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) is said first code(Col. 4, lines 1-15, Col. 6, lines 31-45).

As per **Claim 17, Edwards, Jr.** discloses a method for distribution of storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) comprising:

copying at least portions of said storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) from information content-mastered media(Col. 3, lines 1-15) onto a writeable medium to define copied content on said writeable medium, said information content-mastered media(Col. 3, lines 1-15) including at least said storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) and a first media identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15) , said copied content readable by at least a first media(Col. 3, lines 1-15) reader apparatus only in response to an access code(Col. 4, lines 1-15, Col. 6, lines 31-45); storing, during a first time, a first code(Col. 4, lines 1-15, Col. 6, lines 31-45) (Col. 4, lines 1-15, Col. 6, lines 31-45) related to a first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said writeable medium in exchange for a first payment(Col. 3, lines 15-20, Col. 4, lines 20-30) by a first user; and providing at least first access to said copied content by providing said first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to a first reader apparatus, using said first code(Col. 4, lines 1-15, Col. 6, lines 31-45).

As per **Claim 18, Edwards, Jr.** discloses a method wherein said writeable medium includes a second media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15) different from said first

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media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15) of said information content-mastered media(Col. 3, lines 1-15), and wherein said access code(Col. 4, lines 1-15, Col. 6, lines 31-45) is based on a combination of said second media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15) and said first code(Col. 4, lines 1-15, Col. 6, lines 31-45) (Col. 2, lines 40-55, Col. 4, lines 12-15).

As per **Claim 19, Edwards, Jr.** discloses a method further comprising storing a second code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said writeable media(Col. 3, lines 1-15) obtained at a second time, later than said first time, in exchange for a second payment(Col. 3, lines 15-20, Col. 4, lines 20-30); and providing at least second access, different from said first access, to said copied content by providing said second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to said reader apparatus, using said second code(Col. 4, lines 1-15, Col. 6, lines 31-45) .

As per **Claim 20, Edwards, Jr.** discloses a method for distribution of storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) on information content-mastered media, said media(Col. 3, lines 1-15) including at least first and second content and a media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15) , the method comprising:

storing a first code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said media, at a first time, obtained in exchange for a first payment(Col. 3, lines 15-20, Col. 4, lines 20-30);

providing access to said first content by providing said first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to a reader apparatus, using said first code(Col. 4, lines 1-15, Col. 6, lines 31-45) , wherein access to said second content is

unavailable on the basis of said first code(Col. 4, lines 1-15, Col. 6, lines 31-45) (Col. 4, lines 1-15, Col. 6, lines 31-45);

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storing a second code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said media(Col. 3, lines 1-15) obtained at a second time, later than said first time, in exchange for a second payment(Col. 3, lines 15-20, Col. 4, lines 20-30); and reader apparatus, using said second code(Col. 4, lines 1-15, Col. 6, lines 31-45) .

As per **Claim 21, Edwards, Jr.** discloses a method for distribution of storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) comprising:

distributing a plurality of media(Col. 3, lines 1-15) each including at least said storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) and a distinct media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15) , to a plurality of users including a first user, said media(Col. 3, lines 1-15) readable by at least a first media(Col. 3, lines 1-15) reader apparatus only in response to an access code(Col. 4, lines 1-15, Col. 6, lines 31-45);

storing a first code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said media, at a first time, in exchange for a first payment(Col. 3, lines 15-20, Col. 4, lines 20-30); and

providing at least first access to said storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) by providing said first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to said first reader apparatus, using said first code(Col. 4, lines 1-15, Col. 6, lines 31-45) .

As per **Claim 22, Edwards, Jr.** discloses the method wherein said storable content(Col. 6, lines 37-45) includes information content-mastered content(Col. 3, lines 1-15).

As per **Claim 30, Edwards, Jr.** discloses a computer program product(Col. 3, lines 3-16)*/ for distributing storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) on information content-mastered media(Col. 3, lines 1-15), said media(Col. 3, lines 1-15) including at least first and second content and a media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15) , rule computer program product comprising: signal bearing media(Col. 3, lines 1-15) bearing programming adapted to store a first

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code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said media, at a first time, obtained in exchange for a first payment(Col. 3, lines 15-20, Col. 4, lines 20-30); provide access to said first content by providing said first access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to a reader apparatus, using said first code(Col. 4, lines 1-15, Col. 6, lines 31-45) , wherein access to said second content is unavailable on the basis of said first code(Col. 4, lines 1-15, Col. 6, lines 31-45) ; store a second code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said media(Col. 3, lines 1-15) obtained at a second time, later than said first time, in exchange for a second payment(Col. 3, lines 15-20, Col. 4, lines 20-30); and provide access to said second content by providing said second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) to a reader apparatus, using said second code(Col. 4, lines 1-15, Col. 6, lines 31-45).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,7, 8,12-16 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Edwards, Jr. (5014234)** in view of **Bradley et al.(5172413)**.

As per **Claims 2, 8, 13 and 14, Edwards, Jr.** discloses a method wherein said step of distributing: comprises distributing said first permission code(Col. 4, lines 1-15, Col. 6, lines 31-45).

As per **Claim 3, Edwards, Jr.** discloses a method wherein said storable content(Col. 6, lines 37-45) includes content selected from among software(Abstract).

As per **Claim 7, Edwards, Jr.** discloses a method wherein said step of distributing information content-mastered media(Col. 3, lines 1-15).

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As per **Claim 8, Edwards, Jr.** discloses a method wherein said step of distributing information content-mastered media-comprises downloading said content to said media(Col. 3, lines 1-15).

As per **Claim 12, Edwards, Jr.** discloses a method wherein said first payment(Col. 3, lines 15-20, Col. 4, lines 20-30) is a payment(Col. 3, lines 15-20, Col. 4, lines 20-30) performed by authorizing a charge to a credit or debit account(Col. 3, lines 15-20, Col. 4, lines 20-30).

Edwards, Jr. fails to disclose via an Internet communications link, unsolicited distributing of media, downloading content, and text content, music content and motion picture content.

Bradley et al. discloses a network of libraries for media distribution(Abstract), unsolicited distributing of media(Col. 2, lines 64-67, Col. 3, lines 25-60, Col. 4, lines 54-58), downloading content(Col. 5, lines 36-42), and text content, music content and motion picture content(Abstract, Col. 1, lines 13-61). It would have been obvious to one of ordinary skill in the art the time of the applicant's invention to modify the method of **Edwards, Jr.** and include a network of libraries for media distribution(Abstract), unsolicited distributing of media(Col. 2, lines 64-67, Col. 3, lines 25-60, Col. 4, lines 54-58), downloading content(Col. 5, lines 36-42), and text content, music content and motion picture content(Abstract, Col. 1, lines 13-61) based on the teachings of **Bradley et al.**

Bradley et al. provides the motivation by indicating the network is for delivery of programming from a plurality of electronic libraries to a plurality of users. The Internet is a network used for online distribution without any physical location requirements. This combination provides users with the ability to select programming for delivery to their location.

As per **Claim 15 and 29, Edwards, Jr.** discloses a method for distribution of storable content(Col. 6, lines 37-45) comprising:

receiving a plurality of information content-mastered media(Col. 3, lines 1-15),

said information content-mastered media(Col. 3, lines 1-15) including at least said storable

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content and a media(Col. 3, lines 1-15) identifier number(Col. 2, lines 40-55, Col. 4, lines 12-15) , said media(Col. 3, lines 1-15) readable by at least a first media(Col. 3, lines 1-15) reader apparatus only in response to an access code(Col. 4, lines 1-15, Col. 6, lines 31-45), wherein said; storing, during a first time, at said retail location, a first code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a first access code on said media(Col. 3, lines 1-15) in exchange for a first payment(Col. 3, lines 15-20, Col. 4, lines 20-30); and providing at least first access to said storable content(Col. 6, lines 37-45) by providing said first access code to said first reader apparatus, using said first code(Col. 4, lines 1-15, Col. 6, lines 31-45).

Edwards, Jr. fails to disclose a retail establishment, or a retail establishment is accessible to a plurality of users including a first user or a vending machine.

Bradley et al. discloses a retail establishment(Col. 1, lines 13-30), or a retail establishment is accessible to a plurality of users (Col. 5, lines 15-27) including a first user, and a vending machine(Col. 1, lines 24-31). It would have been obvious to one of ordinary skill in the art the time of the applicant's invention to modify the method of **Edwards, Jr.** and include a retail establishment, or a retail establishment is accessible to a plurality of users including a first user, and a vending machine based on the teachings of **Bradley et al.**

Bradley et al. provides the motivation by indicating that their invention provides for the educational and entertainment needs of an urban center incorporating a plurality of residences that can use the library and delivery system as a form of pay TV.

As per **Claim 16**, **Edwards, Jr.** discloses a method further comprising storing a second code(Col. 4, lines 1-15, Col. 6, lines 31-45) related to a second access code(Col. 4, lines 1-15, Col. 6, lines 31-45) on said media(Col. 3, lines 1-15) obtained at a second time, later than said first time, in exchange for a second payment(Col. 3, lines 15-20, Col. 4, lines 20-30); and providing at least second access, different from said first access, to said storable content(Col. 6, lines 37-45)(Col. 6, lines 37-45) by providing said second access code(Col. 4,

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lines 1-15, Col. 6, lines 31-45) to said reader apparatus, using said second code(Col. 4, lines 1-15, Col. 6, lines 31-45) .

As per **Claim 23, Edwards, Jr.** discloses the method wherein said storable content(Col. 6, lines 37-45) includes serially-written content. **Edwards, Jr.** fail to disclose serially-written content. Official notice is taken that it is old and well known in the computer art to get the advantage of writing content in a serial manner. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include serially-written content in storable content.

Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nishio (5887192)** in view of **Morales(5291554)**.

As per **Claim 24, Nishio** discloses a method of advertising(Col. 5, lines 38-50), comprising: distributing optical disks(Abstract, Col. 1, lines 30-50, Col 5, lines 13-17) including at least a first electronically stored advertisement wherein at least a portion of said optical disk is write able(Abstract, Col. 1, lines 30-50, Col 5, lines 13-17).

As per **Claim 26, Nishio** discloses a method wherein said advertisement(Col. 5, lines 38-50) includes a user activatable hyperlink.

As per **Claim 27, Nishio** discloses a method wherein said advertisement(Col. 5, lines 38-50) includes an advertisement for content stored on said optical disk(Abstract, Col. 1, lines 30-50, Col 5, lines 13-17), wherein said contents accessible only in exchange for a payment(Col. 2, lines 10-40, Col. 8, lines 54).

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As per **Claim 28**, **Nishio** discloses a method wherein said advertisement(Col. 5, lines 38-50) is automatically displayed in response to at least one instance of an insertion of said optical disk(,Abstract, Col. 1, lines 30-50, Col 5, lines 13-17) into a player apparatus (Col. 7, lines 45-52).

As per **Claim 25**, **Nishio** fails to disclose a method wherein said advertisement(Col. 5, lines 38-50) is interactive.

Morales discloses interactive TV (Abstract). It would have been obvious to one of ordinary skill in the art the time of the applicant's invention to modify the method of **Nishio** and include an interactivity feature based on the teachings of **Morales**.

Morales provides the motivation by indicating that interactivity provides optimal communication of catalog choices.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Nerlikar et al. TIRIS Based Kernal for Protection of « Copyrighted » Material.
- Morishita et al. Software Use Method Control System.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 306-0372. The examiner can normally be reached on 9-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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Debra F. Charles
Examiner
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dfc
December 31, 2001


Hyung-Sup So
Primary Examiner